



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 27, 2003

Ms. Denise G. Obinegbo
Open Records Specialist
City of Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2003-3558

Dear Ms. Obinegbo:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 181788.

The Richardson Police Department (the "Department") received a request for a police report concerning a runaway incident involving a named individual that occurred on a specified date. You indicate that the Department has provided the requestor with front page information related to incident report number 03-009921. However, you assert some of the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have reviewed the information you submitted and we have considered the exceptions you claim.

Initially, we note the submitted information consists of two incident reports, numbered 03-009921 and 03-009947. Because the Department does not seek to withhold report number 03-009921, it must release the report after redacting information protected by section 552.130 of the Government Code. Gov't Code § 552.301, .302.

Section 552.130 excepts from public disclosure information relating to a driver's license, license plate, or motor vehicle title or registration issued by an agency of this state. Therefore, the Department must withhold the driver's license numbers we have marked under section 552.130 of the Government Code.

Also, we note the report contains a social security number. A social security number may be withheld in some circumstances under the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* However, a person has a special right of access, beyond the general public, to information held by a governmental body that relates to the person and is protected from public disclosure by laws intended to protect a person's privacy interests. Gov't Code § 552.023(a). In this case, the social security number belongs to the requestor, who has a special right of access to this information. Thus, the Department must release the requestor's social security number to her.

Next, you assert section 552.108 of the Government Code excepts incident report number 03-009947 from required public disclosure. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us, and our review of the submitted information confirms, incident report number 03-009947 relates to a criminal investigation that did not result in conviction or deferred adjudication. Therefore, we conclude section 552.108(a)(2) applies to this report.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), which includes a detailed description of the offense. Thus, with the exception of the basic front page offense and arrest information, the Department may withhold incident report number 03-009947 from disclosure based on section 552.108 of the Government Code. The Department has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

In summary, with the exception of basic information, the Department may withhold incident report number 03-009947 under section 552.108(a)(2). The Department must withhold the information we have marked in incident report number 03-009921 under section 552.130 of the Government Code. The Department must release the remainder of incident report number 03-009921 as it has claimed no other applicable exceptions to disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Christen Sorrell". The signature is fluid and cursive, with the first name "Christen" written in a larger, more prominent script than the last name "Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 181788

Enc: Submitted documents

c: Ms. Paula Norris
1113 Southwestern Drive
Richardson, Texas 75081
(w/o enclosures)